



Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111-1809
415 391 5400
keker.com

Robert A. Van Nest
(415) 391-5400
RVanNest@keker.com

February 28, 2025

Honorable Judge Dale E. Ho
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Motion for Leave to File Amicus Brief in *United States v. Adams* (1:24-cr-00556-DEH)

Dear Judge Ho,

Undersigned counsel represent a group of former federal district court judges.¹ They respectfully request leave to submit a brief, attached as Exhibit 1, as *amici curiae* to provide their collective perspective on the pending motion to dismiss the indictment against Mayor Eric Adams.²

Amici curiae are former federal jurists from across the nation, appointed by administrations of both parties, whose common interest arises from their service on district courts and their abiding dedication to the integrity and independence of those courts. Because the prosecution and defense in this case have effectively joined sides, the judiciary has “institutional interests that the parties cannot be expected to protect.” *Commodity Futures Trading Comm’n v. Schor*, 478 U.S. 833, 851 (1986). *Amici*, therefore, respectfully seek leave to submit their brief in support of their interest in the “institutional integrity of the Judicial Branch.” *Id.*

The circumstances of the dismissal appear to indicate that it is a *quid pro quo* in exchange for Mayor Adams’s promise to comply with the administration’s immigration objectives. Worse, the Justice Department appears to seek to hold the threat of future prosecution over Mayor Adams’s head to maintain the pressure on him. From the perspective of *amici*, if the Court finds an

¹ *Amici* are: Hon. Andre Davis (Ret.); Hon. Nancy Gertner (Ret.); Andrew Guilford (Ret.); Hon. Thelton E. Henderson (Ret.); Hon. Richard J. Holwell (Ret.); Hon. D. Lowell Jensen (Ret.); Hon. George H. King (Ret.); Hon. A. Howard Matz (Ret.); Hon. Stephen M. Orlofsky (Ret.); Hon. Shira A. Scheindlin (Ret.); Hon. Fern Smith (Ret.); Hon. Thomas I. Vanaskie (Ret.); Hon. T. John Ward (Ret.); and Hon. Jeremy Fogel (Ret.).

² *Amici* confirm that no counsel for a party authored this brief in whole or in part and that no person other than *amici* or their counsel made any contribution intended to fund the preparation or submission of this brief.

February 28, 2025

Page 2

improper *quid pro quo*, then the motion should be denied. The Court should not be used as the fulcrum for the administration's leverage against Mayor Adams. The Court may conduct further factual inquiry and may appoint a special prosecutor to advance the interests of justice if the Justice Department refuses to do so.

The Court should grant *amici*'s request for leave to file their proposed brief because the brief "could prove helpful to the Court in shedding light on those aspects of the case that the immediate parties may not [be] best situated to address." *Weininger v. Castro*, 418 F. Supp. 2d 553, 555 (S.D.N.Y. 2006). As former members of the bench, *amici* offer a unique perspective and "insights not available from the parties." *Lehman XS Trust, Series 2006-GP2 v. Greenpoint Mortg. Funding, Inc.*, 2014 WL 265784, at *2 (S.D.N.Y. Jan. 23, 2014). *Amici* "have relevant expertise and a stated concern in [the] case" which may aid the Court in reaching its decision. *District of Columbia v. Potomac Elec. Power Co.*, 826 F. Supp. 2d 227, 237 (D.D.C. 2011). *Amici* are serving the "primary role of [an] *amicus*," which is to "assist the Court in reaching the right decision in a case affected with the interest of the general public." See *Russell v. Bd. of Plumbing Exam'rs of Cnty. of Westchester*, 74 F. Supp. 2d 349, 351 (S.D.N.Y. 1999), *aff'd*, 1 F. App'x 38 (2d Cir. 2001).

For these reasons, the undersigned respectfully requests the Court grant this motion and consider the concurrently filed brief.

Sincerely,

/s/ Robert A. Van Nest

Robert A. Van Nest (*pro hac vice* pending)

Dan Jackson (*pro hac vice* pending)

Kelly S. Kaufman (*pro hac vice* pending)

Elizabeth A. Heckmann (*pro hac vice* pending)

KEKER, VAN NEST & PETERS

633 Battery Street

San Francisco, CA 94111

Telephone: (415) 391-5400

Counsel for Amici Curiae Former Federal Jurists

Cc: All counsel of record (via ECF)